

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri Labala Laxmana, S/o Labala Ramamurthy, R/o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District and his four sons under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings, in Rc.No.748/2006/C5, dated 13.11.2020 of the District Collector, Vizianagaram in cancelling his ST 'Jatapu' Community Certificate – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.30.

Dated:03.11.2021

Read the following:-

1. Proceedings of the Dist. Collector, Vizianagaram, Rc.No.748/2006/C5, dated 13.11.2020.
2. Appeal Petition filed by Sri Labala Laxmana, S/o Labala Ramamurthy, R/o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District and his four sons.
3. Govt. Memo No.1294375/CV.2/2020, S.W.(CV.2) Dept., dt.07.12.2020.
4. From the Dist. Collector, Vizianagaram, Lr.No.748/2006/C5, dated 18.01.2021.
5. Govt. Memo No.1294375/CV.2/2020, S.W.(CV.2) Dept., dt. 07.07.2021.

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ORDER:

In the Proceedings 1st read above, the District Collector, Vizianagaram has issued orders cancelling the ST 'Jatapu' Community Certificate issued to Sri Labala Laxmana, S/o Labala Ramamurthy, R/o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District and his four sons.

2. Sri Labala Laxmana, S/o Labala Ramamurthy and his four sons has filed Appeal Petition before the Government against the Proceedings of the District Collector, Vizianagaram duly submitting grounds in support of their claim of ST 'Jatapu' Community and prayed to set aside the proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government while admitting the same, granted stay on the operation of the District Collector, Vizianagaram and have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the letter 4th read above, the District Collector, Vizianagaram has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri Labala Laxmana, S/o Labala Ramamurthy and his four sons.

4. The said Appeal Petition has been posted for hearing on 24.07.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memo 5th read above. The appellants and their counsel have attended the said hearing on 24.07.2021. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant, the para-wise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram, dated 13.11.2020, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support his claim of ST 'Jatapu' community is as follows:

- 1) The order passed by the District Collector, Vizianagaram is totally misconceived and erroneous. The District Collector has failed to appreciate the observations made by the Hon'ble High Court in WP.No.9168/2009, dt:29.12.2016 wherein the court has observed that the District Level Committee should also take in to the consideration of the aspect of repeated enquiries.

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- 2) The DLSC and District Collector have failed to consider/appreciate the legal aspect of repeated enquiries conducted by Revenue authorities on 30.11.2012, 09.09.2002, 22.03.2005 on the appellants regarding the ST-Jatapu Caste Certificate though all the enquiries were held in favour of the appellants and directing to conduct fresh enquiries is hit by Article 20(2) of the Constitution of India.
- 3) The above enquiries were conducted by the MRO, as per the provisions of A.P. (SCs, STs & BCs) Regulation of the issue of the Community, Nativity and Date of Birth Act, 1995 and Rules, 1997. The extracts of the enquiry reports submitted by the MRO clearly indicates that the 1st appellant's (Labala Laxmana) father was brought up by his mother which was unilaterally accepted and admitted by the custom elders. The same finds place in the subsequent enquiries to be conducted by examining the Village elders, the Caste elders, the relatives of the appellants were examined in particular and after giving ample opportunity, the reports were submitted.
- 4) The Parents of 1st appellant (Labala Laxmana) and who are the Grand Parents of the appellants 2 to 5 (Four sons of Labala Laxmana, the first appellant) are admittedly belongs to ST-Jatapu Community. Though it is a cardinal principle that the off springs cannot be denied the status of the parents caste, the respondents denied the same. Basing on the ST-Jatapu Caste Certificates which were issued by the Competent Authorities after conducting fresh enquiries duly following with the provisions contained in the Act, the appellants are now in Government Organizations and there is no misrepresentation on the part of the appellants and is only in pursuance to the valid enquiries thereof.
- 5) The appellants further submit that the District Collector did not consider the material papers and the evidences filed in support of their contentions. The 1st appellant (Labala Laxmana) was joined in the Government Elementary School, Rella as belonging in to Jatapu Community which is evidenced by the School Register for Admissions, 1947. Labala Laxmana pursued the education on the strength of the admission and later on the Government issued Patta in pursuance to the proceedings of the Deputy Collector (Tribal Welfare) and Settlement Officer, Elwinpeta vide SR No.9/2342/72 dated 24-01-1975. The said proceedings were given as per the Regulation 2 of 1970 wherein the Act postulates that any land purchase in the Tribal area should be only by the Tribals and any transaction contra is said to be illegal. It is submitted that the said Regulation 2/1970 is upheld by the Hon'ble Supreme Court. The learned Deputy Collector is ordered to issue the Ryotwari Patta to the appellant No.1 treating him as belonging to Scheduled Tribe Community (ST Jatapu) and same as become final. The order passed by the Deputy Collector is a quasi Judicial order and hence the same has to be challenged if not accepted by the respondents and hence contrary to the same holding the appellant No.1 not belonging to Jatapu Community (ST) is absolutely illegal and absurd.
- 6) The Court competent to decide the status for issuance of Ryotwari Patta, the Special Deputy Tahsildar later issued the 'D Form Patta to an extent of Ac. 2-30 Cents and till date the same is under possession and cultivation by the appellants herein. The District Collector has totally forgotten that he was dealing with the very Rights of the individuals guaranteed under V Schedule of Constitution and hence the impugned order is liable to be set aside.
- 7) The Appellant No.1 has studied in the Tribal Welfare Hostel, G.L.Puram and the name can be found in Serial No.21. Only the Tribal Students will be admitted in the hostels and the same cannot be denied since it is issued by the Hostel Welfare Officer in the year 1963. The same is placed as material paper in the DLSC and also produced before the Collector and the same was not considered nor any observation is made on the said contention.
- 8) To substantiate the contention that the District Collector did not properly conduct and without elucidating the material, cancelled the Certificates issued earlier, one such case which happened recently wherein the Caste Certificate is cancelled for the simple reason that the surname of the individual is 'Labala' without examining the truth therein. The same was set aside by the Government in Appeal vide G.O.Ms.No.29, dated 20-04-2011. The facts are akin to the facts of this case and hence the appeal deserves to be allowed by setting aside the impugned order passed by the respondent cancelling the certificated issued to the appellants vide order dated 13-11-2020, (M) Rc.No.748/2006/C5 and the consequential Gazette Notification dt 19-11-2020 vide Gazette No.122/2020/8.

- 9) The enquiry report submitted by the Tahsildar dated 21-03-2017 addressed to the District Collector who considered the genealogical tree and examined the elders of the Rella village and the Hamlets so as to arrive at the conclusion. He has examined nearly 13 members of the same family and also few Government servants who stated that the appellants belonged to Jatapu Community and also stated that the appellants were brought up amidst the Community people by appellant No.1's mother. He categorically stated that the witnesses examined have stated that Sri Labhala Laxmana i.e., Appellant No.1 belongs to ST Jatapu and hence submitted the report confirming that the appellants belong to the Schedule Tribe Jatapu Community. The said report was forwarded by the RDO, Parvathipuram, Vizianagaram District, to the District Collector on 30-05-2017 but unfortunately the enquiry reports were not considered.
- 10) On the directions of the member of the DLSC, enquiry was conducted by Smt. Varalakshmi, Assistant Tribal Welfare Officer. The said officer conducted open enquiry examining all the custom elders and their families and found that all the appellants herein are following the Traditions and Rituals of ST Jatapu Caste and also observed that all the kith and kin accepted that they belong to Jatapu Community. More so in the present case the appellants 2 to 4 were admittedly raised up by the appellant No.1 and who in turn was brought up by his mother who is admittedly belongs to Jatapu Tribe and is accepted by the respondents since there is no rebuttal for the said contention. The respondents have acted contrary to the conditions laid down by the Hon'ble Supreme Court in Madhuri Patel's Case and those conditions were later transformed into the Act. The Hon'ble Supreme Court categorically held that enquiries is violative of Article 20 (2) of Constitution of India only on this Ground the Appeal has to be allowed.
- 11) On mere presumptions and assumptions which are not borne out of record, the District Collector passed the impugned order. Merely because the mother of 1st Appellant lived with one person by name Labhala Rama Murthy cannot be assumed that the appellant No.1 who is the son of Pattika Sukamma does not belong to Schedule Tribes Jatapu Tribe. It is not denied by the respondents that the mother of the Appellant No.1 was brought up among the community people who categorically stated in the enquiries about the same. The appellants submit that when Appellant No.1 joined in the school his caste was mentioned as Jatapu which means she was aware of the factual position and the same was continued till date as per the law as on date. This aspect was completely ignored by the respondents while dealing with the future of the appellants. If the order of the District Collector is implemented then appellants are put to irreparable loss and great hardship as they are doing Jobs.

II. The District Collector, Vizianagaram has furnished the following remarks on the above grounds as follows:

- i. The orders issued by the District Collector, Vizianagaram is strictly as per A.P. (SCs, STs & BCs) Regulation of Issue of Community, Nativity and Date of Birth certificates Act 1993 and Rules 1997 and is not in violation of Article 16, 21 and the Constitutional Order 1950.
- ii. The Revenue Divisional Officer (RDO), Parvathipuram has conducted discrete enquiry in the presence of Village Sarpanch, Petitioners, Claimants and other village elders in the village, considering Genealogy, Tradition & Customs, Marital relations and Eating habits etc. of family of Labala Laxmana and listed the following findings :
 - a) The origin of Laxmana is in confusion and there is no conclusive evidence to show that Labala Laxmana born to Pattika Sunkamma and Ramdasu who are both "Jatapu (ST)" as there are different versions in this regard which are oral evidence only.
 - b) Few people in surrounding village of Jatapu(ST) viz. Kosingibhandra and Nondmkona have also emphasized that they belong to either Sistikaranam (by birth) or Sondi (by brought up) both of which are forward caste but not Jatapu (ST) along with some senior citizens of Rella village.
 - c) There is no surname "Labala" in any Schedule Tribe community and it is prevailing in "Sondi" caste only which comes under forward caste. The member of Legislative Assembly, Naguru has also given statement that "Labala" is not included in Tribal surnames.

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- d) Labala Laxmana also married one Narasamma @ Urmila of Molliguda village and Sondi by caste and his children have no specific idea on traditions and customs in Jatapu (ST) community and though they told some festivals, the ambiguity in information related to their culture and traditions shows that they have collected or got informed for the purpose of enquiry only.
- e) They have no clear idea on eating habits and on marital affairs of Jatapu community.
- f) Out of four sons of Labala Laxmana, except one Sri Labala Sankara Rao who is an un-employee and got marriage with Jatapu (ST) community girl and the other three are employees who got inter-caste marriage with BC and OC community women.
- g) During enquiry it reveals that the family of Labala Laxmana has started to come to Rella village only when the caste dispute came into light and managed some Jatapu (ST) caste people to support them by influencing through money or otherwise.
- h) The Collector, Vizianagaram has cancelled the Jatapu(ST) caste certificate of Sri Labala Satyanarayana who is also resident of "Rella village" on the complaint received from the S.T. Employees Association vide Proceedings (M) Rc.No.727/2005/CS, dated.01.06.2007 which is similar to present case.
- i) The parent name of Labala Laxmana was recorded as "Rama Murthy" in his school records. But nowhere, it was recorded as "Ramdasu". Hence, it is clearly established that Labala Laxmana is the son of "Rama Murthy" but not "Ramdasu" and therefore the said Labala Lakshmana and his family belongs to "Sondi" caste.
- j) In the Educational Admission Register copy of Sri Labala Laxmana, there is found one more name viz. Labala Chudamani with the same father name i.e. Rama Murthy against which the caste column is shown as "sondi".
- k) Aggrieved by the report of the Revenue Divisional Officer, Parvathipuram in Rc.No.206/2007/L, dated.10.01.2009, Sri Labala Laxmana Rao and his children have filed WP No.9168/2009 and the Hon'ble High Court has issued the following Interim Orders on 13.04.2009 in W.P.M.P.No.12004/2009 in W.P.No.9168/2009.

"The District Level Scrutiny Committee may go ahead with the enquiry. However final proceedings may not be issued until further orders".

- l) In view of the above report of the Revenue Divisional Officer, Parvathipuram, the issue was referred to the District Level Scrutiny Committee(DLSC), headed by Joint Collector, Vizianagaram. The DLSC has conducted enquiry as per the procedure laid down under Andhra Pradesh (SCs, STs & BCs) Regulation of issue of Community, Nativity and Date of Birth Certificate Act, 1993 and Rules, 1997 on 22.01.2010, 05.02.2010, 19.02.2010 & finally on 12.04.2010 and submitted findings that Labala Laxmana and his children do not belong to ST-Jatapu caste. Before taking decision on the findings of the DLSC, the facts were submitted to the Hon'ble High Court in view of interim orders dated. 13.04.2009 in W.P.M.P.No.12004/2009 in W.P.No.9168/2009.
- m) The Hon'ble High Court has disposed of W.P.No.9168/2009, keeping it open for the respondents herein strictly proceed in accordance with the provisions of the Act and the rules and it is open for the petitioners herein to file the entire material before the DLSC and advance all their contentions. Thus, the Hon'ble High Court did not observed to consider repeated enquiries.
- n) In view of the order issued vide G.O.Ms.No.57, General Administration (Special. A) Department, dated.01.03.2014, the Project Officer, I.T.D.A, Parvathipuram shall act as Chairman of the District Level Scrutiny Committee in respect of STs for cancellation of certificates obtained fraudulently. Hence, the issue was referred to the District Level Scrutiny Committee headed by the Project Officer, I.T.D.A, Parvathipuram which is as per A.P. (SCs, STs & BCs) Regulation of Issue of Community, Nativity and Date of Birth certificates Act 1993 and Rules 1997, which does not constitute repeated enquiry. Further the District Collector is empowered to order for fresh enquiry under Act 1993 and Rules 1997, the report is full-fledged. Thus, the contention that directing to conduct fresh enquiries is hit by Article 20(2) of the Constitution of India is not maintainable.

- iii. As the reports of Tahsildar, G.L.Puram, dated. 22.03.2005 were inconclusive; the District Collector, Vizianagaram has ordered further enquiry reports from the Tahsildar, G.L.Puram and also from RDO, Parvathipuram. After obtaining reports from the RDO, the issue was referred to DLSC as per Issuance of Community Certificate Rules. The DLSC after giving opportunities to the appellants as per Rule 8 of the said Rules, has submitted findings.
- iv. The District Collector, Vizianagaram, has given an opportunity U/s 5(1) of AP (SCs, STs & BCs) Regulation of Issue of Community, Nativity and Date of Birth Certificates Act 1993 and Rules 1997. While communicating the findings of the DLSC, notices have been issued to Sri Labala Laxmana and his family members to attend before the Collector & District Magistrate, Vizianagaram on 03.10.2020 at 04:30 P.M at Collector's Chamber, Vizianagaram to produce the documents, if any, in support of their claim that they belong to "ST-Jatapu" caste. The appellants were present except Labala Haritha and Swetha on the scheduled date before the District Collector, Vizianagaram and submitted their written arguments. After hearing and considering the written arguments of the appellants and also DLSC findings along with records available in the file, it is found that the arguments and evidences put forth have already been examined by the DLSC. The DLSC found that Sri Labala Laxmana and his family members don't know and not following the cultures, traditions and customs of ST-Jatapu community as all have been brought up by BC-Sondi caste customs only and married to Non-ST women.
- v. The Spl. Deputy Collector, Elwinpeta is not Competent Authority to certify the caste of Labala Laxmana. He might have treated Sri Labala Laxmana as ST-Jatapu while dealing the sale of the land under AP LTR Act, 1959 considering the misleading of facts by Labala Laxmana. Hence, the proceedings of Spl. Deputy Collector, Tribal Welfare, dated:24.01.1975 is unacceptable as evidence. Labala Laxmana couldn't establish that he is son of Pattika Ramadasu and Sunkaramma as his school records shows that the father name was recorded as Labala Ramamurthy, who belongs to Sondi (BC). Thus, they failed to prove their claim that they belong to ST Jatapu community despite the fact that the burden of proof lies with Appellants under Rule 6 of Rules 1997 and Section 6 of Act 1993. Thus the contentions of the appellants are false.
- vi. The contention that the 1st Respondent has totally forgotten while dealing with the rights of the individuals guaranteed under constitution 5th schedule and passed impugned order is not tenable. As per the Government of India Rc.No.12026/6/2006-C & I.M.I, dated.03.10.2008 addressed to the Chief Secretary, Govt. of A.P, has stated that, as per judgment of Supreme Court in case of Anjan Kumar vs. Union of India (2006) 3SCC 257, the condition precedent for granting tribe certificate being that one must suffer disabilities where from one belongs. Further, the offspring's of a tribal women to a Non-Tribal husband cannot claim ST status and the reason being such offspring was brought up in the atmosphere of Non-ST and is not subjected to any disability. Furthermore, the Supreme Court has also stated that, SC and ST certificates are not a bounty to be distributed and to sustain the claim one must show that, he/she suffered disabilities i.e., socially, economically and educationally, cumulatively. Thus, the authority concern before whom such claim is made is duty bound to satisfy that, the applicant suffered disabilities i.e., socially, economically and educationally before such certificate is issued.
- vii. The orders issued are self-speaking which clearly states that, in view of the contradictory reports of the Tabsildar, G.L.Puram, the matter was referred to the Revenue Divisional Officer, Parvathipuram to conduct discrete enquiry by issuing notices to all persons involved well in advance and submit detailed enquiry report. The Revenue Divisional Officer, Parvathipuram accordingly conducted enquiry. Further, as per the orders of the Hon'ble High Court, the DLSC has considered the entire material/contentions produced by the appellants and gave its findings.
- viii. Further, the contention that, their facts are akin to the facts mentioned in G.O.Ms.No.29 Social Welfare (CV.2) Department, dated.20.04.2011 in which the Government has set-aside the orders of the District Collector, Vizianagaram is not correct. The Government had set-aside the orders of the District Collector, Vizianagaram considering the castes of grandfather and grandmother in which both belong to ST-Jatapu of Sri Labala Satyanarayana. But in this case the facts are not akin.

- ix. The District Collector, Vizianagaram after considering the findings of the DLSC, reports of the RDO, Parvathipuram and Tahsildar, G.L.Puram including evidences produced by the appellants during hearing has come to opinion that, the appellants do not belong to ST-Jatapu and issued cancellation orders which is strictly as per law.
- x. For the grounds and reasons mentioned in the aforesaid Paras, the appellants do not belong to ST-Jatapu caste. They wrongly obtained ST-Jatapu caste certificates by misrepresenting facts. Getting the false ST-Jatapu caste certificate by misrepresenting the facts and by which getting the admissions in Educational Institutions and continuing in the Government Organizations will deprive the constitutional benefits of genuine ST candidates and it is violation of Sec. 11(4) of Andhra Pradesh (SCs, STs & BCs) Issue of Community, Nativity and Date of Birth certificate Act 1993. The grounds put forth in the appeal deserves no consideration and liable for rejection.

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. During the course of arguments, the appellants submitted their arguments stating that lower authority did not consider the material papers and the evidence filed by them in support of their contentions and the evidence of school register for admission in 1947 and tribal welfare hostel entries of the year 1963, clearly reveals that the 1st appellant belongs to Jatapu and as such on that scores they are able to prove their community as ST-Jatapu.
2. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the documents pertaining to the 1st appellant reveals that he belongs to ST Jatapu. In the light of the same the appellants able to prove their claim that their community is Jatapu as such they comes under ST Category.
3. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above and after careful examination of the appeal petition and the circumstances stated supra that in exercise the powers conferred under the act and the rules, the appeal is hereby allowed filed by the appellants by upholding the appellants are Schedule Tribe (Jatapu) claim and the proceeding of the District Collector, Vizianagaram District is to be Set-aside and accordingly the same is hereby set-aside.
5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the appeal petition filed by Sri Labala Laxmana, S/o Labala Ramamurthy, R/o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District and his four sons viz., (1) Labala Nagabhushan Rao (2) Labala Manamadha Rao (3) Labala Sankara Rao and (4) Labala Vishnu and the proceedings in Rc.No.748/2006/C5, dated 13.11.2020 of the District Collector, Vizianagaram are hereby set-aside duly upholding the Scheduled Tribe (Jatapu) claim of the appellants and their children.
6. The District Collector, Vizianagaram is directed to take necessary consequential action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To

The Collector & District Magistrate, Vizianagaram District.

Sri Labala Laxmana, S/o Labala Ramamurthy,
R/o. Rella Village, Gummalaxmipuram Mandal,
Vizianagaram District.
Phone: 8790942626

Sri Labala Nagabhushan Rao, S/o. Labala Laxmana,
R/o. Rella Village, Gummalaxmipuram Mandal,
Vizianagaram District.

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Sri Labala Manamadha Rao, S/o. Labala Laxmana Rao,
R/o. Rella Village, Gurugubilli Village and Mandal,
Vizianagaram District.

Sri Labala Sankara Rao, S/o Labala Laxmana Rao,
R/o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District.

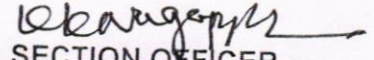
Sri Labala Vishnu, S/o Labala Laxmana Rao,
R/o o Rella Village, Gummalaxmipuram Mandal, Vizianagaram District.

Copy to:

The OSD to Hon'ble Dy. CM(TW).

The PS to Secretary(TW).

// FORWARDED:: BY ORDER //


SECTION OFFICER

